

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Martinsburg Division**

**BRENDA A. BOSLEY, ADMINISTRATRIX OF
THE ESTATE OF JAMES C. BOSLEY, DECEASED,
AND BRENDA BOSLEY,**

Plaintiffs,

vs.

CASE NUMBER 3:07-CV-142

**COLONEL D. L. LEMMON, SUPERINTENDENT OF
THE WEST VIRGINIA STATE POLICE, et al.,**

Defendants.

PLAINTIFFS' MOTION FOR AWARD OF ATTORNEY FEES AND COSTS

In the present case, the Mineral County Defendants served an *Offer of Judgment* upon the plaintiffs on July 23, 2009 in the amount of Thirty Thousand Dollars (\$30,000.00). The offer was silent as to the plaintiffs' accrued costs. On July 28, 2009, the Plaintiffs accepted the offer and filed with the Court the *Offer of Judgment* and the *Plaintiffs' Acceptance of Offer of Judgment*. Pursuant to the plain language of Rule 68, upon acceptance and filing of the offer of judgment, the Plaintiffs were entitled to a judgment against the Mineral County Defendants in the amount of Thirty Thousand Dollars plus the plaintiffs' costs accrued at the time of the offer. Such costs include the plaintiffs' attorney fees pursuant to the fee shifting provisions of 42 U.S.C. § 1988. On October 14, 2009, the Court granted Plaintiffs' Motion for Entry of Judgment Order and directed the Plaintiffs to make application for attorney's fees and costs, first submitting the application to the defendants for consideration and if no agreement was reached within 30 days

to submit the application to the Court. No agreement having been reached within 30 days after submission to the defendants, plaintiffs submit the present Motion for Award of Attorney Fees and Cost to the Court.

/s/Harry P. Waddell (WVSB #3883)
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CERTIFICATE OF SERVICE

I, Harry P. Waddell, hereby certify that on December 14, 2009, I electronically filed this *Plaintiffs' Motion for Award of Attorney Fees and Costs* with the Clerk of the Court using the CM/ECF system evidencing service upon the following counsel of record:

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